RECENT IMPORTANT DECISIONS.

ARMY AND NAVY—ENLISTMENT OF MINOR—DISCHARGE.—When X was about two years old his mother gave to petitioner "full control, care and custody and complete management" of the infant, petitioner agreeing to "raise, support and educate " him. At the age of eighteen years and seven months, X enlisted in the United States army. REV. STAT., § 1117 (U. S. COMP. STAT., 1909, p. 813) provides that no person under twenty-one years of age shall be mustered into the service of the United States without the consent of his parent or guardian provided he has such. Here a brother of X, claiming to be his guardian, had furnished the necessary consent, neither his mother, who was then living, nor this petitioner consenting to the enlistment. Petitioner applied for the discharge of X on a writ of habeas corpus, and, during the pendency of the action, regularly adopted X. *Held,* that petitioner is entitled to secure the discharge. *Deane* v. *Burkman* (1911), 190 Fed. 541.

The statute here in question has repeatedly been held to be solely for the benefit of the guardian, conferring no privileges even upon the minor. *Solomon* v. *Davenport,* 30 C. C. A. 664, 87 Fed. 318. The Federal courts have consequently held that one who has become guardian since the enlistment of the minor has not the right to secure his discharge: "The sole question is whether this petitioner who has become guardian since his (the minor's) enlistment is entitled to avoid it. In my opinion he is not. One who was a guardian at the time of enlistment is referred to." *In re Perrone,* 89 Fed. 150. To the same effect is *In re Morrissey,* 137 U. S. 157, 11 Sup. Ct. 57, 34 L. Ed. 644. The court has refused to apply to the facts in this case the rule of the two cases mentioned, distinguishing this case on the ground that the petitioner has, for years, stood *in loco parentis,* although a legal adoption was not had previous to the enlistment.

ARREST—AUTHORITY TO ARREST WITHOUT WARRANT—"IN HIS PRESENCE."—"WITHIN HIS IMMEDIATE KNOWLEDGE."—Plaintiff, suspected of having stolen money, was arrested, taken to the police station, and there imprisoned until the next afternoon, without the issuance of any warrant. Section 917 of the Penal Code is as follows: "An arrest may be made for a crime by an officer, either under a warrant or without a warrant if the offense is committed *in his presence,* or the offender is endeavoring to escape, or for other cause there is likely to be a failure of justice for want of an officer to issue a warrant." The only ground of justification was that the crime was committed in the officer's presence. *Held,* to justify the arrest without a warrant the officer need not see the act, which constitutes the crime, take place, if by any of his senses he has personal knowledge of its commission as the words "in his presence" as used in Penal Code, § 917, and the words "within his immediate knowledge" as used in § 921 are synonymous. *Piedmont Hotel Co.* v. *Henderson* (Ga., 1911), 72 S. E. 51.

Although the necessity of an immediate arrest to prevent the escape of

the guilty person is undoubtedly the reason why the common law permits arrest in certain cases without a warrant, neither an actual, nor an apprehended, attempt to escape is, at common law, a condition of the right to arrest without a warrant in an otherwise proper case. *Rohan* v. *Sawin*, 5 Cush. 281. At common law peace officers had power to arrest without a warrant when the offense was committed in their view. *Prell* v. *McDonald*, 7 Kan. 426; *State* v. *Lafferty*, 5 Harr. (Del.) 491. But this has in some States been restricted by statutory condition that an immediate arrest must be necessary to prevent an attempted or apprehended escape. There is, however, very little authority upon the effect of this condition. If the power is conferred by charter, an ordinance may authorize the officer to arrest without a warrant, where the offense is committed in his view. *Chicago* v. *Kenney*, 35 Ill. App. 57, 63; *Bryan* v. *Bates*, 15 Ill. 87; *Scircle* v. *Neeves*, 47 Ind. 289. But unless the violation is committed in his view, process or warrant for arrest is required. *Clark* v. *New Brunswick*, 43 N. J. L. 175. An ordinance authorizing police officers to make arrests without a warrant for breaches of ordinances not committed in their presence was held void in *Pesterfield* v. *Vickers*, 3 Coldw. 205; and see *Judson* v. *Reardon*, 16 Minn. 431. An officer who hears a pistol shot and immediately discovers a man running from that direction may arrest on the ground that the person was endeavoring to escape. *Brooks* v. *State*, 114 Ga. 6. Under N. C. CODE, § 1126 it is only when an officer apprehends an escape unless he acts promptly that he is justified in making an arrest for a felony which he has reasonable grounds to believe has been committed by the person arrested. *Neal* v. *Joyner*, 89 N. C. 287 under the TEX. CODE CRIM. PROC., Art. 229, an officer has no right to make an arrest for a felony without a warrant unless the person arrested is "about to escape." *Karner* v. *Stump*, 12 Tex. Civ. App. 460. Nor is an officer acting without a warrant justified in killing a person while fleeing from arrest for a crime which is only a misdemeanor, although such officer acts on his suspicion that a felony has been committed. *Petrie* v. *Cartwright*, 114 Ky. 103, 59 L. R. A. 720, 102 Am. St. Rep. 274, see notes and cases cited. The right to arrest, without a warrant, a fugitive from justice from another State has been passed upon in a few cases. In *Harris* v. *Louisville N. O. & T. R. Co.*, 35 Fed. 116 it was held that a temporary arrest without previous warrant may be made in a case of urgent necessity, but that the detention can only last to bring the prisoner before a magistrate for a proper inquiry. Substantially the same position is taken in *Re Henry*, 29 How. Pr. 185; *State* v. *Anderson*, 1 Hill, L. 327; and *Simmons* v. *Vandyke*, 138 Ind. 380, 26 L. R. A. 33, 46 Am. St. Rep. 411. But in *Botts* v. *Williams*, 17 B. Mon. 687, it was said that there could be no arrest in such a case without a warrant; and that the one making such an arrest was guilty of assault and battery is held in *State* v. *Shelton*, 79 N. C. 605.

BANKRUPTCY—THE RIGHT OF A WIFE TO RECOVER AN EQUITABLE CLAIM AGAINST HER HUSBAND'S ESTATE IN BANKRUPTCY.—A wife had received and inherited property from her father, and had always treated it as her sole and separate estate; from this separate estate she paid a matured obligation of her